IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 22ND AUGUST 2007 / 31ST SRAVANA 1929

WP(C).No. 15455 of 2006(M)

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OA.102/2003 of DEBT RECOVERY TRIBUNAL, ERNAKULAM

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PETITIONER:

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SAJU. K. ISSAC, S/O. K.V. ISSAC,
KOZHIVILLIL HOUSE, SOUTH PAMPADY P.O.,
KOTTAYAM.

BY ADV. SRI.MATHEW ABRAHAM

RESPONDENTS:

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1. STATE BANK OF INDIA, REPRESENTED
BY ITS MANAGER, KOTTAYAM BRANCH.

2. THE AUTHORISED OFFICER,
(STATE BANK OF INDIA), DEBT RECOVERY TRIBUNAL
ERNAKULAM.

3. THE DEBT RECOVERY TRIBUNAL,
KHFC, ERNAKULAM.

R1&2 BY ADV. SRI.GEORGE THOMAS(MEVADA), SC, SBI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF THE LETTER DT.2.1.06 ISSUED BY R1.

P2: TRUE COPY OF LETTER DT.13.1.06.

P3: TRUE COPY OF NOTICE DT.19.5.06.

P4: TRUE COPY OF EXPARTE AWARD OF DRT DT.15.12.05.

P5(a) & (b): TRUE COPY OF I.A. 967/06 AND I.A. 968/06 DT.5.6.2006.

P6: TRUE COPY OF LETTER DT.25.2.2006.

RESPONDENT'S EXHIBITS:

ANNEXURE I: PHOTOCOPY OF LETTER DT.31.7.2007.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.15455 of 2006

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Dated this the 22nd day of August, 2007.

JUDGMENT

Petitioner's grievance is that the first respondent has withdrawn the OTS benefit granted to the petitioner under Ext.P1. Counsel for the Bank filed a statement wherein it is clearly averred that OTS benefit was granted vide Ext.P1 on the assumption that case filed by the Bank was still pending with the DRT. However, later when the first respondent realised that OA was already decreed, Ext.P1 was withdrawn vide Ext.P6. It is seen that the time lag in granting and withdrawing OTS benefit was six weeks. However, petitioner has not made any payment under the OTS facility accepting it and expressing willingness to settle. Moreover, while admitting the W.P. this court directed the petitioner to pay Rs.10 lakhs vide order dated 15.10.2007. The petitioner has not cared to pay the money. Obviously there is no scope for interference because settlement benefit granted under a mistake about pendency of a case can always be withdrawn after notice of the factual error based on which the benefit was granted. The Bank has now stated that petitioner has filed a revised proposal for settlement at Rs.65 lakhs which is under consideration. I feel the revised offer should be quite attractive for

the Bank and for the petitioner as well and if wisdom prevails, both the parties should go for settlement. The W.P. is closed.

C.N.RAMACHANDRAN NAIR
Judge

pms